

111TH CONGRESS
2D SESSION

S. 3517

To amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2010

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Claims Processing Improvement Act of 2010”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RATING OF SERVICE-CONNECTED DISABILITIES
MATTERS

Sec. 101. Pilot program on evaluation and rating of service-connected disabilities of the musculoskeletal system.

TITLE II—ADJUDICATION AND APPEAL MATTERS

Sec. 201. Partial adjudication of claims for disability compensation consisting of multiple issues one or more of which can be quickly adjudicated.

Sec. 202. Clarification that requirement of Secretary of Veterans Affairs to provide notice to claimants of additional information and evidence required only applies when additional information or evidence is actually required.

Sec. 203. Equal deference to private medical opinions in assessing claims for disability compensation.

Sec. 204. Improvements to disability compensation claim review process.

Sec. 205. Provision by Secretary of Veterans Affairs of notice of disagreement forms to initiate appellate review with notices of decisions of Department of Veterans Affairs.

Sec. 206. Modification of filing period for notice of disagreement to initiate appellate review of decisions of Department of Veterans Affairs.

Sec. 207. Modification of substantive appeal process.

Sec. 208. Provision of post-notice of disagreement decisions to claimants who file notice of disagreements.

Sec. 209. Automatic waiver of agency of original jurisdiction review of new evidence.

Sec. 210. Authority for Board of Veterans' Appeals to determine location and manner of appearance for hearings.

Sec. 211. Decision by Court of Appeals for Veterans Claims on all issues raised by appellants.

Sec. 212. Good cause extension of period for filing notice of appeal with United States Court of Appeals for Veterans Claims.

Sec. 213. Pilot program on participation of local and tribal governments in improving quality of claims for disability compensation submitted to Department of Veterans Affairs.

1 TITLE I—RATING OF SERVICE-
2 CONNECTED DISABILITIES
3 MATTERS

4 SEC. 101. PILOT PROGRAM ON EVALUATION AND RATING
5 OF SERVICE-CONNECTED DISABILITIES OF
6 THE MUSCULOSKELETAL SYSTEM.

7 (a) PILOT PROGRAM REQUIRED.—The Secretary of
8 Veterans Affairs shall carry out a pilot program to assess

1 the feasibility and advisability of applying an alternative
2 schedule for rating service-connected disabilities of the
3 musculoskeletal system.

4 (b) SCHEDULE FOR RATING SERVICE-CONNECTED
5 DISABILITIES.—

6 (1) IN GENERAL.—Not later than 240 days
7 after the date of the enactment of this Act, the Sec-
8 retary shall establish an alternative schedule for rat-
9 ing service-connected disabilities of the musculo-
10 skeletal system.

11 (2) PUBLICATION IN FEDERAL REGISTER.—Not
12 later than 270 days after the date of the enactment
13 of this Act, the Secretary shall publish the alter-
14 native schedule established under paragraph (1) in
15 the Federal Register.

16 (3) COLLABORATION.—The Secretary shall es-
17 tablish the alternative schedule required by para-
18 graph (1) collaboratively through the Under Sec-
19 retary for Benefits, the Under Secretary for Health,
20 and the General Counsel.

21 (4) ELEMENTS.—The alternative schedule for
22 rating disabilities under paragraph (1) shall include
23 the following:

24 (A) The use of the International Classifica-
25 tion of Diseases, as adopted by the Secretary of

1 Health and Human Services under section
2 1173(c) of the Social Security Act (42 U.S.C.
3 1320d-2(c)) and any successor revisions to
4 such classification so adopted, for purposes of
5 identifying disabilities of the musculoskeletal
6 system.

7 (B) A residual functional capacity assess-
8 ment instrument to describe the functional
9 musculoskeletal loss resulting from any dis-
10 ability of the musculoskeletal system.

11 (C) Mechanisms for the assignment of one
12 residual functional capacity rating for all mus-
13 culoskeletal disabilities determined to be serv-
14 ice-connected, which mechanisms shall take into
15 account the following:

16 (i) Frequency of symptoms affecting
17 residual functional capacity of the mus-
18 culoskeletal system, set forth as a range
19 of—

20 (I) infrequent (once a year or
21 less);

22 (II) several (two to six) times a
23 year;

24 (III) occasional (seven to twelve
25 times a year);

1 (IV) weekly; and

2 (V) daily or continuous.

3 (ii) Severity of symptoms affecting re-
4 sidual functional capacity of the musculo-
5 skeletal system resulting in loss of func-
6 tional capacity of the musculoskeletal sys-
7 tem, set forth as a range of—

8 (I) minimal (symptoms present
9 but requiring no treatment);

10 (II) slight (such as requiring
11 minor alteration of activity or treat-
12 ment with over-the-counter medica-
13 tion);

14 (III) mild (such as requiring rest
15 of relevant body part and use of over-
16 the-counter medication, prescription
17 medication, or therapy, such as ice or
18 heat to an affected part);

19 (IV) moderate (such as requiring
20 medical evaluation and treatment or
21 prescription medication for pain or
22 symptom control with side effects
23 which can be expected to interfere
24 with full performance of work-related
25 activities); and

1 (V) moderately severe to severe
2 (such as requiring the need to use as-
3 sistive devices for ambulation, use of
4 opiod or similar prescription medica-
5 tion to control pain which precludes
6 driving or being around machinery,
7 in-patient hospitalization or rehabilita-
8 tion or frequent out-patient treatment
9 physical therapy, or loss or loss of use
10 of functional capacity in both arms or
11 feet, or one arm and one foot, or re-
12 quiring a wheelchair for mobility).

13 (iii) Duration of symptoms affecting
14 residual functional capacity of the mus-
15 culoskeletal system resulting in reduced
16 functional capacity of the musculoskeletal
17 system, set forth as a range of—

18 (I) one day or less to one week;

19 (II) more than one week but less
20 than four weeks;

21 (III) four weeks or more but less
22 than six months;

23 (IV) six months or more but less
24 than one year; and

25 (V) one year or more.

(D) Mechanisms for the assignment of ratings of disability in certain cases as follows:

(i) If the veteran has an active musculoskeletal cancer or other active musculoskeletal disability likely to result in death, a rating of 100 percent.

(ii) If the veteran would qualify for a temporary disability rating under section 1156 of title 38, United States Code, the rating provided under that section.

(iii) If the veteran would qualify for a temporary disability rating under any regulations prescribed by the Secretary not provided for under this section, the rating assigned under such regulations.

(E) Such other mechanisms as the Secretary considers appropriate for the pilot program.

(5) FORMS FOR RECORDING RESIDUAL FUNCTIONAL CAPACITY ASSESSMENTS.—

(A) IN GENERAL.—The Secretary shall establish one or more functional capacity assessment forms to be used in performing assessments with the instrument required by paragraph (4)(B).

1 (B) AVAILABILITY.—The Secretary shall
 2 make the forms established under subparagraph
 3 (A) available to the public in an electronic for-
 4 mat for use by any physician or other medical
 5 provider in assessing the residual functional ca-
 6 pacity related to disabilities of the musculo-
 7 skeletal system.

8 (6) EXEMPTION FROM APA.—The establishment
 9 of the alternative schedule required by paragraph (1)
 10 shall not be subject to the requirements of sub-
 11 chapter II of chapter 5, and chapter 7, of title 5,
 12 United States Code (commonly known as the “Ad-
 13 ministrative Procedure Act”).

14 (c) APPLICATION OF ALTERNATIVE SCHEDULE.—

15 (1) IN GENERAL.—In carrying out the pilot
 16 program, the Secretary shall apply the alternative
 17 schedule for rating disabilities established under
 18 subsection (b) to veterans described in paragraph
 19 (3) who have a condition of the musculoskeletal sys-
 20 tem that has been determined to be a disability in-
 21 curred or aggravated during military service to de-
 22 termine the rating to be assigned for such disability.

23 (2) APPLICATION THROUGH REGIONAL OF-
 24 FICES.—

1 (A) IN GENERAL.—The Secretary shall
2 apply the alternative schedule for rating service-
3 connected disabilities under this subsection
4 through not fewer than six and not more than
5 ten regional offices of the Department of Vet-
6 erans Affairs selected by the Secretary for pur-
7 poses of the pilot program.

8 (B) DIVERSITY OF SELECTION.—In select-
9 ing regional offices under subparagraph (A),
10 the Secretary shall select—

11 (i) at least one regional office consid-
12 ered by the Secretary to be a small office;

13 (ii) at least one regional office consid-
14 ered by the Secretary to be a large office;

15 and

16 (iii) regional offices representing a va-
17 riety of geographic settings.

18 (3) COVERED VETERANS.—Veterans described
19 in this paragraph are veterans who—

20 (A) submit to the Secretary more than one
21 year after their date of discharge or release
22 from the active military, naval, or air service an
23 original claim for benefits under the laws ad-
24 ministered by the Secretary;

(B) allege in the claim described in subparagraph (A) the existence of a condition of the musculoskeletal system that was incurred or aggravated in such military, naval, or air service;

(C) file such claim with a regional office of the Department with original jurisdiction of the claim that is participating in the pilot program; and

(D) have not expressly declined participation in the pilot program.

(4) RELATION TO COMBINED RATINGS

TABLE.—A rating assigned for a musculoskeletal service-connected disability under the pilot program shall be determined without regard to the Combined Ratings Table in title 38, Code of Federal Regulations, except that in determining the final rating of all service-connected disabilities, the rating for musculoskeletal disabilities as determined under the pilot program shall be combined with any other disabilities using such table.

(5) TREATMENT OF DISABILITY RATINGS FOR LOSS OF BODILY INTEGRITY.—Compensation under laws administered by the Secretary for a disability receiving a disability rating under the schedule es-

1 tablished under subsection (b)(1) shall be, as appli-
 2 cable, in addition to or consistent with any com-
 3 pensation otherwise provided under subsections (k)
 4 through (s) of section 1114 of title 38, United
 5 States Code.

6 (d) LIMITATIONS ON DENIAL OF SERVICE CONNEC-
 7 TION.—During the pilot program, the Secretary may not
 8 determine a musculoskeletal condition of a veteran to be
 9 not service-connected for purposes of the veteran’s partici-
 10 pation in the pilot program unless the Secretary—

11 (1) obtains, or receives a report of, a medical
 12 examination of the veteran which—

13 (A) includes a brief history of the veteran’s
 14 military service relevant to the condition;

15 (B) identifies the diagnosed musculo-
 16 skeletal disabilities in accordance with the clas-
 17 sification required by subsection (b)(4)(A); and

18 (C) describes the functional limitations of
 19 such conditions, and if applicable, any sec-
 20 ondary conditions related to such alleged condi-
 21 tions or any non-service connected disability ag-
 22 gravated by the alleged conditions; and

23 (2) obtains or receives a medical opinion on—

24 (A) the nexus between any diagnosed mus-
 25 culoskeletal condition alleged to be service-con-

1 needed and the active military, naval, or air
2 service of the veteran; and

3 (B) if applicable, the relationship between
4 any service-connected disabilities of the veteran
5 and any secondary disabilities related to such
6 disabilities or any non-service connected dis-
7 ability aggravated by the alleged conditions.

8 (e) RECORDS.—

9 (1) IN GENERAL.—The Secretary shall main-
10 tain for purposes of the pilot program a separate
11 searchable electronic file on each veteran covered by
12 the pilot program.

13 (2) ELEMENTS.—The electronic file maintained
14 with respect to a veteran under paragraph (1) shall
15 include for the following:

16 (A) An index of the documents contained
17 in the electronic file.

18 (B) The claim of the veteran for benefits
19 under the laws administered by the Secretary,
20 including any reapplication with respect to such
21 claim.

22 (C) The service treatment records of the
23 veteran from medical care received while serv-
24 ing in the active military, naval, or air service
25 and any other medical treatment records of the

1 veteran from service during periods of active or
2 inactive duty for training.

3 (D) The personnel records of service of the
4 veteran—

5 (i) in the active military, naval, or air
6 service; and

7 (ii) in the reserve components of the
8 Armed Forces.

9 (E) Such other private or public medical
10 records of the veteran as the Secretary con-
11 siders appropriate.

12 (F) Records of any medical examinations
13 and medical opinions on the residual functional
14 capacity of the musculoskeletal system of the
15 veteran, including any examinations and opin-
16 ions obtained under subsection (d).

17 (G) Records of any medical examinations
18 and medical opinions concerning any non-mus-
19 culoskeletal disabilities claimed by the veteran
20 as service-connected.

21 (H) Any non-medical evidence applicable to
22 the claim.

23 (I) Current information and evidence on
24 any dependents of the veteran for purposes of
25 the laws administered by the Secretary.

1 (J) Ratings and decisions of the Secretary
2 with respect to the claims of the veteran.

3 (K) Information concerning the amount of
4 compensation paid to the veteran under laws
5 administered by the Secretary.

6 (L) Any notices or correspondence sent by
7 the Secretary to the veteran or any correspond-
8 ence submitted by the veteran to the Secretary
9 in connection with the claim that does not con-
10 tain evidence or information applicable to the
11 claims of the veteran.

12 (3) ORGANIZATION.—Each file required by
13 paragraph (1) shall be stored or displayed with sepa-
14 rate sections for each element required under para-
15 graph (2).

16 (f) TERMINATION OF APPLICATION.—The Secretary
17 shall cease the application to veterans under subsection
18 (c) of the alternative schedule for rating service-connected
19 disabilities under subsection (b) for purposes of the pilot
20 program on the date that is 4 years after the date of the
21 enactment of this Act.

22 (g) PRESERVATION OF RATINGS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), a disability rating assigned under the al-
25 ternative schedule established under subsection (b)

1 shall not be reduced during or after termination of
2 the pilot program absent evidence of clear and un-
3 mistakable error in the original assignment of the
4 rating or evidence of an improvement in the mus-
5 culoskeletal disability manifested by less frequent,
6 less severe, or shorter duration of symptoms meas-
7 ured over a period of at least six months in the year
8 prior to any re-evaluation.

9 (2) EXCEPTION.—Paragraph (1) shall not
10 apply to ratings assigned for temporary periods as
11 provided in subsection (b)(4)(D).

12 (h) RELATIONSHIP TO OTHER PROVISIONS OF LAW
13 ADMINISTERED BY THE SECRETARY OF VETERANS AF-
14 FAIRS.—Except as otherwise specifically provided in this
15 section, all applicable provisions of law administered by
16 the Secretary shall apply to decisions of the Secretary
17 made under the pilot program.

18 (i) INTERIM REPORT.—

19 (1) IN GENERAL.—Not later than 300 days
20 after the date of the enactment of this Act, the Sec-
21 retary shall submit to the Committee on Veterans'
22 Affairs of the Senate and the Committee on Vet-
23 erans' Affairs of the House of Representatives an in-
24 terim report on the pilot program.

1 (2) ELEMENTS.—The interim report required
2 by paragraph (1) shall include the following:

3 (A) A description of the alternative sched-
4 ule for rating service-connected disabilities es-
5 tablished under subsection (b).

6 (B) The rationale for the alternative sched-
7 ule as described under subparagraph (A).

8 (C) A description of the policies and proce-
9 dures established under the pilot program.

10 (j) REPORT.—

11 (1) IN GENERAL.—Not later than 3 years and
12 180 days after the date of the enactment of this Act,
13 the Secretary shall submit to the Committee on Vet-
14 erans' Affairs of the Senate and the Committee on
15 Veterans' Affairs of the House of Representatives a
16 report on the pilot program.

17 (2) ELEMENTS.—The report required by para-
18 graph (1) shall include the following:

19 (A) A copy of the alternative schedule for
20 rating service-connected disabilities established
21 under subsection (b) and any changes made to
22 such schedule during the pilot program.

23 (B) A description and assessment of the
24 application of the alternative schedule for rating

1 service-connected disabilities of veterans, includ-
2 ing—

3 (i) the total number of veterans to
4 which the alternative schedule was applied;

5 (ii) the total number of veterans de-
6 termined to have a service-connected dis-
7 ability consisting of a condition of the mus-
8 culoskeletal system; and

9 (iii) the ratings of disability assigned
10 to veterans described in clause (ii), set
11 forth by percentage of disability assigned.

12 (C) An assessment of the feasibility and
13 advisability of applying the alternative schedule
14 for rating service-connected disabilities to addi-
15 tional claimants.

16 (D) A comparison of a representative sam-
17 ple of decisions rendered by different regional
18 offices for similar disabilities participating in
19 the pilot program.

20 (E) The number of appeals filed for claims
21 adjudicated under the pilot program.

22 (F) An assessment of the effectiveness of
23 the electronic file maintained under subsection
24 (e) in—

1 (i) the adjudication of claims under
2 the pilot program; and

3 (ii) improving the efficiency of deci-
4 sion making by the Department.

5 (G) Such recommendations for legislative
6 or administrative action as the Secretary con-
7 siders appropriate in light of the pilot program.

8 (k) DEFINITIONS.—In this section:

9 (1) The term “active military, naval, or air
10 service” has the meaning given that term in section
11 101(24) of title 38, United States Code.

12 (2) The term “non-service-connected”, with re-
13 spect to a disability, has the meaning given that
14 term in section 101(17) of title 38, United States
15 Code.

16 (3) The term “service-connected”, with respect
17 to a disability, has the meaning given that term in
18 section 101(16) of title 38, United States Code.

1 **TITLE II—ADJUDICATION AND**
 2 **APPEAL MATTERS**

3 **SEC. 201. PARTIAL ADJUDICATION OF CLAIMS FOR DIS-**
 4 **ABILITY COMPENSATION CONSISTING OF**
 5 **MULTIPLE ISSUES ONE OR MORE OF WHICH**
 6 **CAN BE QUICKLY ADJUDICATED.**

7 (a) IN GENERAL.—Section 1157 of title 38, United
 8 States Code, is amended—

9 (1) by striking “The Secretary” and inserting
 10 the following:

11 “(a) IN GENERAL.—The Secretary”; and

12 (2) by adding at the end the following new sub-
 13 section:

14 “(b) ASSIGNMENT OF PARTIAL RATINGS.—(1) In the
 15 case of a veteran who submits to the Secretary a claim
 16 for compensation under this chapter for more than one
 17 condition and the Secretary determines that a disability
 18 rating can be assigned without further development for
 19 one or more conditions but not all conditions in the claim,
 20 the Secretary shall—

21 “(A) expeditiously assign a disability rating for
 22 the condition or conditions that the Secretary deter-
 23 mined could be assigned without further develop-
 24 ment; and

1 “(B) continue development of the remaining
2 conditions.

3 “(2) If the Secretary is able to assign a disability rat-
4 ing for a condition described in paragraph (1)(B) with re-
5 spect to a claim, the Secretary shall assign such rating
6 and combine such rating with the rating or ratings pre-
7 viously assigned under paragraph (1)(A) with respect to
8 that claim.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act, and shall apply with respect to claims
12 filed on or after the date that is 60 days after the date
13 of the enactment of this Act.

14 **SEC. 202. CLARIFICATION THAT REQUIREMENT OF SEC-**
15 **RETARY OF VETERANS AFFAIRS TO PROVIDE**
16 **NOTICE TO CLAIMANTS OF ADDITIONAL IN-**
17 **FORMATION AND EVIDENCE REQUIRED ONLY**
18 **APPLIES WHEN ADDITIONAL INFORMATION**
19 **OR EVIDENCE IS ACTUALLY REQUIRED.**

20 (a) IN GENERAL.—Section 5103(a)(1) of title 38,
21 United States Code, is amended by striking the first sen-
22 tence and inserting the following: “If the Secretary re-
23 ceives a complete or substantially complete application
24 that does not include information or medical or lay evi-
25 dence not previously provided to the Secretary that is nec-

1 essary to substantiate the claim, the Secretary shall, upon
 2 receipt of such application, notify the claimant and the
 3 claimant’s representative, if any, that such information or
 4 evidence is necessary to substantiate the claim.”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
 6 subsection (a) shall take effect on the date of the enact-
 7 ment of this Act, and shall apply with respect to claims
 8 filed on or after the date that is 60 days after the date
 9 of the enactment of this Act.

10 **SEC. 203. EQUAL DEFERENCE TO PRIVATE MEDICAL OPIN-**
 11 **IONS IN ASSESSING CLAIMS FOR DISABILITY**
 12 **COMPENSATION.**

13 (a) **PROVISION OF DEFERENCE.**—

14 (1) **IN GENERAL.**—Subchapter I of chapter 51
 15 of title 38, United States Code, is amended by in-
 16 serting after section 5103A the following new sec-
 17 tion:

18 **“§ 5103B. Treatment of private medical opinions**

19 “(a) **IN GENERAL.**—If a claimant submits a private
 20 medical opinion in support of a claim for disability com-
 21 pensation in accordance with standards established by the
 22 Secretary, such opinion shall be treated by the Secretary
 23 with the same deference as a medical opinion provided by
 24 a Department health care provider.

1 “(b) SUPPLEMENTAL INFORMATION.—(1) If a pri-
 2 vate medical opinion submitted as described in subsection
 3 (a) is found by the Secretary to be competent, credible,
 4 and probative, but otherwise not entirely adequate for pur-
 5 poses of assigning a disability rating and the Secretary
 6 determines a medical opinion from a Department health
 7 care provider is necessary for such purpose, the Secretary
 8 shall obtain from an appropriate Department health care
 9 provider (as determined pursuant to the standards de-
 10 scribed in subsection (a)) a medical opinion that is ade-
 11 quate for such purposes.

12 “(2) If the Secretary obtains a medical opinion from
 13 a Department health care provider under paragraph (1),
 14 the Secretary shall ensure that the medical opinion is ob-
 15 tained from a health care provider of the Department that
 16 has professional qualifications that are at least equal to
 17 the qualifications of the provider of the private medical
 18 opinion described in such paragraph.

19 “(c) DEPARTMENT HEALTH CARE PROVIDER DE-
 20 FINED.—In this section, the term ‘Department health care
 21 provider’ includes a provider of health care who provides
 22 health care under contract with the Department.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
 24 tions at the beginning of chapter 51 of such title is

1 amended by inserting after the item relating to sec-
 2 tion 5103A the following new item:

“5103B. Treatment of private medical opinions.”.

3 (3) EFFECTIVE DATE.—Section 5103B of such
 4 title, as added by paragraph (1), shall take effect on
 5 the date of the enactment of this Act, and shall
 6 apply with respect to claims pending or filed on or
 7 after the date that is 270 days after the date of the
 8 enactment of this Act.

9 (b) NOTICE.—

10 (1) IN GENERAL.—Section 5103(a) of such title
 11 is amended by adding at the end the following new
 12 paragraph:

13 “(3) A notice provided under this subsection shall in-
 14 form a claimant, as the Secretary considers appropriate
 15 with respect to the claimant’s claim—

16 “(A) of the rights of the claimant to assistance
 17 under section 5103A of this title; and

18 “(B) if the claimant submits a private medical
 19 opinion in support of a claim for disability com-
 20 pensation, how such medical opinion will be treated
 21 under section 5103B of this title.”.

22 (2) EFFECTIVE DATE.—Paragraph (3) of such
 23 section 5103(a), as added by paragraph (1), shall
 24 take effect on the date that is 270 days after the
 25 date of the enactment of this Act.

1 **SEC. 204. IMPROVEMENTS TO DISABILITY COMPENSATION**

2 **CLAIM REVIEW PROCESS.**

3 (a) ESTABLISHMENT OF FAST TRACK CLAIM RE-
4 VIEW PROCESS.—

5 (1) IN GENERAL.—Subchapter I of chapter 51
6 of title 38, United States Code, is amended by in-
7 serting after section 5103B, as added by section 203
8 of this Act, the following new section:

9 **“§ 5103C. Expedited review of initial claims for dis-**
10 **ability compensation**

11 “(a) PROCESS REQUIRED.—The Secretary shall es-
12 tablish a process for the rapid identification of initial
13 claims for disability compensation that should, in the adju-
14 dication of such claims, receive priority in the order of re-
15 view.

16 “(b) REVIEW OF INITIAL CLAIMS.—As part of the
17 process required by subsection (a), the Secretary shall as-
18 sign employees of the Department who are experienced in
19 the processing of claims for disability compensation to
20 carry out a preliminary review of all initial claims for dis-
21 ability compensation submitted to the Secretary in order
22 to identify whether—

23 “(1) the claims have the potential of being ad-
24 judicated quickly;

25 “(2) the claims qualify for priority treatment
26 under paragraph (2) of subsection (c); and

1 “(3) a temporary disability rating could be as-
2 signed with respect to the claims under section 1156
3 of this title.

4 “(c) PRIORITY IN ADJUDICATION OF INITIAL
5 CLAIMS.—(1) As part of the process required by sub-
6 section (a) and except as provided in paragraph (2), the
7 Secretary shall, in the adjudication of initial claims for
8 disability compensation submitted to the Secretary, give
9 priority in the order of review of such claims to claims
10 identified under subsection (b)(1) as having the potential
11 of being adjudicated quickly.

12 “(2) The Secretary may, under regulations the Sec-
13 retary shall prescribe, provide priority in the order of re-
14 view of initial claims for disability compensation for the
15 adjudication of the following:

16 “(A) Initial claims for disability compensation
17 submitted by homeless claimants.

18 “(B) Initial claims for disability compensation
19 submitted by veterans who are terminally ill.

20 “(C) Initial claims for disability compensation
21 submitted by claimants suffering severe financial
22 hardship.

23 “(D) Partially adjudicated claims for disability
24 compensation under section 1157(b) of this title.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions at the beginning of chapter 51 of such title is
 3 amended by inserting after the item relating to sec-
 4 tion 5103B, as so added, the following new item:

“5103C. Expedited review of initial claims for disability compensation.”.

5 (3) EFFECTIVE DATE.—Section 5103C of such
 6 title, as added by paragraph (1), shall take effect on
 7 the date that is 90 days after the date of the enact-
 8 ment of this Act.

9 (b) AUTHORITY FOR CLAIMANTS TO END DEVELOP-
 10 MENT OF CLAIMS.—

11 (1) IN GENERAL.—Such subchapter is further
 12 amended by inserting after section 5103C, as added
 13 by subsection (a), the following new section:

14 **“§ 5103D. Procedures for fully developed claims**

15 “Upon notification received from a claimant that the
 16 claimant has no additional information or evidence to sub-
 17 mit, the Secretary may determine that the claim is a fully
 18 developed claim. The Secretary shall then undertake any
 19 development necessary for any Federal records, medical
 20 examinations, or opinions relevant to the claim and may
 21 decide the claim based on all the evidence of record.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
 23 tions at the beginning of chapter 51 of such title is
 24 amended by inserting after the item relating to sec-

1 tion 5103C, as added by subsection (a), the fol-
 2 lowing new item:

“5103D. Procedures for fully developed claims.”.

3 (3) EFFECTIVE DATE.—Section 5103D of such
 4 title, as added by paragraph (1), shall take effect on
 5 the date of the enactment of this Act.

6 **SEC. 205. PROVISION BY SECRETARY OF VETERANS AF-**
 7 **FAIRS OF NOTICE OF DISAGREEMENT FORMS**
 8 **TO INITIATE APPELLATE REVIEW WITH NO-**
 9 **TICES OF DECISIONS OF DEPARTMENT OF**
 10 **VETERANS AFFAIRS.**

11 (a) IN GENERAL.—Section 5104 of title 38, United
 12 States Code, is amended—

13 (1) in subsection (a), by striking the second
 14 sentence; and

15 (2) in subsection (b), by striking “also include
 16 (1) a” and all that follows and inserting the fol-
 17 lowing: “include the following:

18 “(1) A statement of the reasons for the deci-
 19 sion.

20 “(2) A summary of the evidence relied upon by
 21 the Secretary in making the decision.

22 “(3) An explanation of the procedure for ob-
 23 taining review of the decision.

1 “(4) A form that, once completed, can serve as
2 a notice of disagreement under section 7105(a) of
3 this title.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall take effect on the date that is 180
6 days after the date of the enactment of this Act.

7 **SEC. 206. MODIFICATION OF FILING PERIOD FOR NOTICE**
8 **OF DISAGREEMENT TO INITIATE APPELLATE**
9 **REVIEW OF DECISIONS OF DEPARTMENT OF**
10 **VETERANS AFFAIRS.**

11 (a) FILING OF NOTICE OF DISAGREEMENT BY
12 CLAIMANTS.—

13 (1) IN GENERAL.—Paragraph (1) of section
14 7105(b) of title 38, United States Code, is amend-
15 ed—

16 (A) by striking “one year” and inserting
17 “180 days” in the first sentence; and

18 (B) by striking “one-year” and inserting
19 “180-day” in the third sentence.

20 (2) ELECTRONIC FILING.—Such paragraph is
21 further amended by inserting “or transmitted by
22 electronic means” after “postmarked”.

23 (3) GOOD CAUSE EXCEPTION FOR UNTIMELY
24 FILING OF NOTICES OF DISAGREEMENT.—Such sec-

1 tion 7105(b) is amended by adding at the end the
2 following new paragraph:

3 “(3)(A) A notice of disagreement not filed within the
4 time prescribed by paragraph (1) shall be treated by the
5 Secretary as timely filed if—

6 “(i) the Secretary determines that the claimant,
7 legal guardian, or other accredited representative,
8 attorney, or authorized agent filing the notice had
9 good cause for the lack of filing within such time;
10 and

11 “(ii) the notice of disagreement is filed not later
12 than 186 days after the period prescribed by para-
13 graph (1).

14 “(B) For purposes of this paragraph, good cause
15 shall include the following:

16 “(i) Circumstances relating to any physical,
17 mental, educational, or linguistic limitation of the
18 claimant, legal guardian, representative, attorney, or
19 authorized agent concerned (including lack of facility
20 with the English language).

21 “(ii) Circumstances relating to significant delay
22 in the delivery of the initial decision or of the notice
23 of disagreement caused by natural disaster or fac-
24 tors relating to geographic location.

1 “(iii) A change in financial circumstances, in-
 2 cluding the payment of medical expenses or other
 3 changes in income or net worth that are considered
 4 in determining eligibility for benefits and services on
 5 an annualized basis for purposes of needs-based ben-
 6 efits under chapters 15 and 17 of this title.”.

7 (b) APPLICATION BY DEPARTMENT FOR REVIEW ON
 8 APPEAL.—Section 7106 of such title is amended in the
 9 first sentence by striking “one-year period described in
 10 section 7105” and inserting “period described in section
 11 7105(b)(1)”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall take effect on the date that is 180 days
 14 after the date of the enactment of this Act, and shall apply
 15 with respect to claims filed on or after the date of the
 16 enactment of this Act.

17 **SEC. 207. MODIFICATION OF SUBSTANTIVE APPEAL PROC-**
 18 **ESS.**

19 (a) IN GENERAL.—Section 7105 of title 38, United
 20 States Code, is amended—

21 (1) in subsection (d)—

22 (A) in paragraph (3), by striking “The
 23 claimant will be afforded” and all that follows
 24 through the end of the paragraph; and

1 (B) by striking paragraphs (4) and (5);
2 and

3 (2) by adding at the end the following new sub-
4 section:

5 “(e)(1) A claimant shall be afforded a period of 60
6 days from the date the post-notice of disagreement deci-
7 sion is mailed under subsection (d) to file a substantive
8 appeal.

9 “(2)(A) The period under paragraph (1) may be ex-
10 tended for an additional 60 days for good cause shown
11 on a request for such extension submitted in writing with-
12 in such period.

13 “(B) For purposes of this paragraph, good cause
14 shall include the following:

15 “(i) Circumstances relating to any physical,
16 mental, educational, or linguistic limitation of the
17 claimant, legal guardian, or other accredited rep-
18 resentative, attorney, or authorized agent filing the
19 request (including lack of facility with the English
20 language).

21 “(ii) Circumstances relating to significant delay
22 in the delivery of the initial decision or of the notice
23 of disagreement caused by natural disaster or fac-
24 tors relating to geographic location.

1 “(iii) A change in financial circumstances, in-
2 cluding the payment of medical expenses or other
3 changes in income or net worth that are considered
4 in determining eligibility for benefits and services on
5 an annualized basis for purposes of needs-based ben-
6 efits under chapters 15 and 17 of this title.

7 “(3) A substantive appeal under this subsection shall
8 identify the particular determination or determinations
9 being appealed and allege specific errors of fact or law
10 made by the agency of original jurisdiction in each deter-
11 mination being appealed.

12 “(4) A claimant in any case under this subsection
13 may not be presumed to agree with any statement of fact
14 contained in the post-notice of disagreement decision to
15 which the claimant does not specifically express disagree-
16 ment.

17 “(5) If the claimant does not file a substantive appeal
18 in accordance with the provisions of this chapter within
19 the period afforded under paragraphs (1) and (2), as the
20 case may be, the agency of original jurisdiction shall dis-
21 miss the appeal and notify the claimant of the dismissal.
22 The notice shall include an explanation of the procedure
23 for obtaining review of the dismissal by the Board of Vet-
24 erans’ Appeals.

1 “(6) In order to obtain review by the Board of a dis-
 2 missal of an appeal by the agency of original jurisdiction,
 3 a claimant shall file a request for such review with the
 4 Board within the 60-day period beginning on the date on
 5 which notice of the dismissal is mailed pursuant to para-
 6 graph (5).

7 “(7) If a claimant does not file a request for review
 8 by the Board in accordance with paragraph (6) within the
 9 prescribed period or if such a request is timely filed and
 10 the Board affirms the dismissal of the appeal, the deter-
 11 mination of the agency of original jurisdiction regarding
 12 the claim for benefits under this title shall become final
 13 and the claim may not thereafter be reopened or allowed,
 14 except as may otherwise be provided by regulations not
 15 inconsistent with this title.

16 “(8) If an appeal is not dismissed by the agency of
 17 original jurisdiction, the Board may nonetheless dismiss
 18 any appeal which is—

19 “(A) untimely; or

20 “(B) fails to allege specific error of fact or law
 21 in the determination being appealed.”.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 subsection (a) shall take effect on the date of the enact-
 24 ment of this Act, and shall apply with respect to claims

1 filed on or after the date that is 180 days after the date
2 of the enactment of this Act.

3 **SEC. 208. PROVISION OF POST-NOTICE OF DISAGREEMENT**
4 **DECISIONS TO CLAIMANTS WHO FILE NOTICE**
5 **OF DISAGREEMENTS.**

6 (a) IN GENERAL.—Section 7105 of title 38, United
7 States Code, is amended—

8 (1) by striking “statement of the case” each
9 place it appears and inserting “post-notice of dis-
10 agreement decision”; and

11 (2) in subsection (d), as amended by section
12 207 of this Act—

13 (A) in paragraph (1), by striking subpara-
14 graphs (A) through (C) and inserting the fol-
15 lowing new subparagraphs:

16 “(A) A description of the specific facts in the
17 case that support the agency’s decision, including, if
18 applicable, an assessment as to the credibility of any
19 lay evidence pertinent to the issue or issues with
20 which disagreement has been expressed.

21 “(B) A citation to pertinent laws and regula-
22 tions that support the agency’s decision.

23 “(C) A statement that addresses each issue and
24 provides the reasons why the evidence relied upon

1 supports the conclusions of the agency under the
2 specific laws and regulations applied.

3 “(D) The date by which a substantive appeal
4 must be filed in order to obtain further review of the
5 decision.”; and

6 (B) by adding at the end the following new
7 paragraph:

8 “(4) The post-notice of disagreement decision shall
9 be written in plain language.”.

10 (b) CONFORMING AMENDMENT.—Section 7105A of
11 such title is amended by striking “statement of the case”
12 each place it appears and inserting “post-notice of dis-
13 agreement decision”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date that is 180 days
16 after the date of the enactment of this Act, and shall apply
17 with respect to notices of disagreements filed on or after
18 the date that is 180 days after the date of the enactment
19 of this Act.

20 **SEC. 209. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL**
21 **JURISDICTION REVIEW OF NEW EVIDENCE.**

22 (a) IN GENERAL.—Section 7105 of title 38, United
23 States Code, as amended by section 207 of this Act, is
24 further amended by adding at the end the following new
25 subsection:

(b) EFFECTIVE DATE.—Subsection (f) of such section, as added by subsection (a), shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims for which a substantive appeal is filed on or after the date that is 180 days after the date of the enactment of this Act.

20 **SEC. 210. AUTHORITY FOR BOARD OF VETERANS' APPEALS**
21 **TO DETERMINE LOCATION AND MANNER OF**
22 **APPEARANCE FOR HEARINGS.**

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1 (1) in paragraph (1), by striking “An appel-
 2 lant” and all that follows through the end and in-
 3 serting the following: “Upon request by an appellant
 4 for a hearing before the Board, the Board shall de-
 5 termine whether the hearing will be held at its prin-
 6 cipal location or at a facility of the Department, or
 7 other appropriate Federal facility, located within the
 8 area served by a regional office of the Department
 9 as the Secretary considers most appropriate to
 10 schedule the earliest possible date for the hearing.”;
 11 and

12 (2) by adding at the end the following new
 13 paragraph:

14 “(4) A determination by the Board under paragraph
 15 (1) with respect to the location of a hearing shall be final
 16 unless the appellant demonstrates, on motion, good cause
 17 or special circumstances warranting a different location.”.

18 (b) MANNER OF APPEARANCE.—Subsection (e) of
 19 such section is amended—

20 (1) in paragraph (2)—

21 (A) by striking “afford the appellant an
 22 opportunity” and inserting “, as the Chairman
 23 determines appropriate, require the appellant”;
 24 and

25 (B) by striking the last sentence; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(3) A determination by the Chairman under para-
4 graph (2) with respect to the participation of an appellant
5 in a hearing shall be final unless the appellant dem-
6 onstrates, on motion, good cause or special circumstances
7 warranting a different determination.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date that is 180 days
10 after the date of the enactment of this Act, and shall apply
11 with respect to requests for hearings filed on or after the
12 date that is 180 days after the date of the enactment of
13 this Act.

14 **SEC. 211. DECISION BY COURT OF APPEALS FOR VETERANS**

15 **CLAIMS ON ALL ISSUES RAISED BY APPEL-**
16 **LANTS.**

17 Section 7261 of title 38, United States Code, is
18 amended—

19 (1) in subsection (a), in the matter before para-
20 graph (1), by striking “, to the extent necessary to
21 its decision and when presented, shall” and inserting
22 “shall, when presented”;

23 (2) by redesignating subsections (c) and (d) as
24 subsections (d) and (e), respectively; and

1 (3) by inserting after subsection (b) the fol-
 2 lowing new subsection (c):

3 “(c) In carrying out a review of a decision of the
 4 Board of Veterans’ Appeals, the Court shall render a deci-
 5 sion on every issue raised by an appellant within the ex-
 6 tent set forth in this section.”.

7 **SEC. 212. GOOD CAUSE EXTENSION OF PERIOD FOR FILING**
 8 **NOTICE OF APPEAL WITH UNITED STATES**
 9 **COURT OF APPEALS FOR VETERANS CLAIMS.**

10 (a) IN GENERAL.—Section 7266 of title 38, United
 11 States Code, is amended—

12 (1) by redesignating subsections (b), (c), and
 13 (d) as subsections (c), (d), and (e), respectively;

14 (2) by inserting after subsection (a) the fol-
 15 lowing new subsection (b):

16 “(b)(1) The Court may extend the initial period for
 17 the filing of a notice of appeal set forth in subsection (a)
 18 for an additional period not to exceed 120 days from the
 19 expiration of such initial period upon a motion—

20 “(A) filed with the Court not later than 120
 21 days after the expiration of such initial period; and

22 “(B) showing good cause for such extension.

23 “(2) If a motion for extension under paragraph (1)
 24 is filed after expiration of the initial period for the filing
 25 of a notice of appeal set forth in subsection (a), the notice

1 of appeal shall be filed concurrently with, or prior to, the
 2 filing of the motion.”; and

3 (3) in subsection (e), as redesignated by para-
 4 graph (1), by striking “subsection (c)(2)” and in-
 5 serting “subsection (d)(2)”.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 subsection (a) shall take effect on the date of the enact-
 8 ment of this Act and shall apply with respect to notices
 9 of appeal filed on or after the date of the enactment of
 10 this Act.

11 **SEC. 213. PILOT PROGRAM ON PARTICIPATION OF LOCAL**
 12 **AND TRIBAL GOVERNMENTS IN IMPROVING**
 13 **QUALITY OF CLAIMS FOR DISABILITY COM-**
 14 **PENSATION SUBMITTED TO DEPARTMENT OF**
 15 **VETERANS AFFAIRS.**

16 (a) PILOT PROGRAM REQUIRED.—The Secretary of
 17 Veterans Affairs shall carry out a pilot program to assess
 18 the feasibility and advisability of entering into memoran-
 19 dums of understanding with local governments and tribal
 20 organizations—

21 (1) to improve the quality of claims submitted
 22 to the Secretary for compensation under chapter 11
 23 of title 38, United States Code; and

1 (2) to provide assistance to veterans who may
2 be eligible for such compensation in submitting such
3 claims.

4 (b) MINIMUM NUMBER OF PARTICIPATING TRIBAL
5 ORGANIZATIONS.—In carrying out the pilot program re-
6 quired by subsection (a), the Secretary shall enter into
7 memorandums of understanding with at least two tribal
8 organizations.

9 (c) TRIBAL ORGANIZATION DEFINED.—In this sec-
10 tion, the term “tribal organization” has the meaning given
11 that term in section 3765 of title 38, United States Code.

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